

**BEFORE THE FLORIDA
JUDICIAL QUALIFICATIONS COMMISSION**

**INQUIRY CONCERNING A
JUDGE, NO. 01-244**

CASE NO.: SC01-2670

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EMERGENCY MOTION FOR PROTECTIVE ORDER

COMES NOW, the Respondent the Honorable Charles W. Cope, by and through his undersigned counsel, and moves for a protective order quashing the deposition of Nina V. Jeans and in support thereof states:

1. On June 7, 2002, Special Counsel served a notice of videotaped deposition of Nina V. Jeanes to take place on Monday, June 17, 2002, in Rockville, Maryland.
2. Nina Jeanes was deposed on March 2, 2002.
3. Nina Jeanes is a critical witness for the Respondent in that she possesses substantial exculpatory information. However, Nina Jeanes has also committed perjury at her deposition and will necessarily be a hostile witness to the Respondent at the final hearing.
4. Special Counsel has previously moved this Court for permission to present Nina Jeanes testimony live to the Hearing Panel through videoconferencing. Respondent has relied upon Special Counsel's representations and intent in this regard; and the Court granted Special Counsel's motion.

5. Special Counsel has known of the date of this final hearing for some time and has demonstrated no need to conduct a deposition of Nina Jeanes to perpetuate her testimony at trial. To the contrary, Special Counsel asserted to the Court in the most recent hearing that this procedure was required on the ground that he needs to play the tape recording of the 911 call for the witness in order for her to explain comments she made on that tape. Special Counsel disingenuously asserted that he could not do this with videoconferencing. This is simply untrue as anyone who is familiar with videoconferencing knows. After the undersigned pointed out such fact to the Court, Special Counsel then told the Court Nina Jeanes planned a “trip” commencing on June 25th. Thus he provided no valid reason whatsoever which prevents the witness from testifying before the Hearing Panel through videoconferencing on June 24, 2002.

6. The undersigned cannot in the present circumstances make the trip to Maryland for the scheduled deposition. The undersigned cannot effectively cross-examine Nina Jeanes by telephone. In addition, the deposition is scheduled to take place at the law office of Nina Jeanes private attorneys, who obstructed the last deposition of Nina Jeanes and who may be reasonably expected to obstruct cross-examination at this deposition.

7. Further discovery is being taken by the Respondent next week in which additional information is expected to be developed pertinent to the

cross-examination of Nina Jeanes at final hearing. Since Special Counsel proposes to conduct the deposition before that discovery is taken, he is well aware his proposal effectively hinders the ability of the Respondent to confront this critical witness.

8. In order to preserve his right of confrontation with respect to this witness, it is vitally important that the witness be examined by videoconferencing live before the Hearing Panel so that the Court can directly oversee the examination and make appropriate rulings as to objections which may well be frivolous.

9. Given Special Counsel's announced intention to prevent Nina Jeanes from testifying live before the Hearing Panel, the Respondent has caused a trial subpoena to be issued compelling her attendance at the final hearing by videoconferencing on June 24, 2002.

WHEREFORE, Respondent respectfully requests this Court issue an order quashing the scheduled depositions and awarding fees and costs to Respondent incurred in bringing this motion and requiring that Special Counsel produce this witness at final hearing.

Respectfully submitted,

ROBERT W. MERKLE, ESQ.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via facsimile and U.S. Mail to: **Judge James R. Jorgenson**, Chair of the Judicial Qualifications Commission Hearing Panel, 3rd District Court of Appeal, 2001 S.W. 117th Avenue, Miami, Florida 33175-1716; **John Beranek, Esq.**, Counsel to the Hearing Panel of the Judicial Qualifications Commission, P.O. Box 391, Tallahassee, Florida 32302; **John S. Mills, Esq.**, Special Counsel, Foley & Laudner, 200 Laura Street, Jacksonville, Florida 32201-0240; **Brooke S. Kennerly**, Executive Director of the Florida Judicial Qualifications Commission, 1110 Thomasville Road, Tallahassee, Florida 32303; **Thomas C. MacDonald, Jr., Esq.**, General Counsel to the Investigative Panel of the Judicial Qualifications Commission, 100 North Tampa Street, Suite 2100, Tampa, Florida 33602, this 11th day of June, 2002.

ROBERT W. MERKLE, ESQ.